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ABSTRACT

A general procedure for self-evaluation by educational institutions is outlined, with specific suggestions made for major areas of institutional operation. The proposals do not purport to be regulatory, but are believed to be consistent with the intent of regulatory obligations. Topics covered by the paper include: remedial and affirmative action; the general plan for self-evaluation; assurances required; effects of other requirements; designation of responsible employee; adoption of grievance procedures; dissemination of policy; membership practices of exempt organizations; admissions and recruitment; education programs and activities; assistance for foreign study awards; use of programs not operated by institutions; housing; comparable facilities; access to course offerings; counseling and use of appraisal and counseling materials; financial assistance; employment assistance to students; health and insurance benefits and services; marital and parental status; athletics; textbooks and other curricular materials; and summary of employment requirements. (LBH)

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AMERICAN COUNCIL ON EDUCATION

OFFICE OF WOMEN IN HIGHER EDUCATION

INSTITUTIONAL SELF-EVALUATION: THE TITLE IX REQUIREMENT

U S DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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PREPARED BY
EMILY TAYLOR, DIRECTOR
DONNA SHAVLIK, ASSISTANT DIRECTOR

A WORKING PAPER PREPARED FOR THE
COMMISSION ON WOMEN IN HIGHER EDUCATION

OCTOBER 1975

AMERICAN COUNCIL ON EDUCATION
ONE DUPONT CIRCLE
WASHINGTON, D. C. 20036

OFFICE OF THE PRESIDENT

December, 1975

Dear Colleague:

As you know, the Title IX Regulation requires the completion of an institutional self-evaluation by July, 1976. The Council's Office of Women in Higher Education has prepared the attached paper, intended to assist institutions in this process. It suggests a general procedure for self-evaluation, with specific suggestions for major areas of institutional operation. While these proposals do not purport to be regulatory, they are believed to be consistent with the intent of regulatory obligations.

I have repeatedly stated on your behalf that the higher education community regards discrimination on the basis of both sex and race as morally indefensible and wasteful of the talents of those who have been or might be denied full access to all educational programs and employment. It is my hope that institutions committed not only to meeting the legal requirements of Title IX but also to the affirmative goals of equality of opportunity will find the suggested procedures in this paper of assistance.

Sincerely,

Roger W. Heyns

RWH:eb

Enclosures

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INSTITUTIONAL SELF-EVALUATION:

THE TITLE IX REQUIREMENT

The governing clause of Title IX of the Education Amendments of 1972 seems deceptively simple in light of its potential for ending sex discrimination in institutions of higher education:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to deiscrimination under any education program or activity receiving Federal financial assistance...

In June, 1975, the Secretary of Health, Education, and Welfare (HEW) submitted to Congress for final review the Regulation implementing Title IX, the first comprehensive Federal legislation to include the right of students, as well as employees, to be free of sex discrimination. The Regulation was found to conform to the intent of Congress and became effective on July 21, 1975.

The Title IX Regulation specifically required that each institution complete a self-evaluation within one year. Just as self-evaluation has been a common and traditional technique used by colleges and universities as a prelude to the formulation of sound educational policy, so also should a systematic examination of the access, participation, and involvement of women and men in educational programs, activities, and employment be of assistance in assessing existing sex discrimination and devising means to remedy inequities.

The Title IX Regulation does not impose a process to be used by colleges and universities for self-evaluation. This paper suggests both a general process and specific evaluation activities necessary, in the opinion of the authors, for compliance with Title IX and its implementing Regulation. Additional activities are recommended that are not specifically required but are desirable in providing equal opportunity. Neither the general plan nor the specific procedures recommended in this paper have official sanction, but they may be helpful to some institutions in carrying out their self-evaluation obligation.

Even readers familiar with the final Title IX Regulation may find a review of the italicized synopses of requirements a forceful reminder of the breadth and depth of Title IX coverage. Its scope lends support to

the conclusion that the full and equal participation of women and men in the educational enterprise requires an approach in evaluation that goes beyond a review of the mandated activities.

The rules and regulations for Title IX, first printed in the Federal Register, Vol. 40, No. 108, June 4, 1975, are available from the Office for Civil Rights, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. The document is entitled Final Title IX Regulation Implementing Education Amendments of 1972, Prohibiting Sex Discrimination in Education, Effective Date: July 21, 1975. Everyone involved in a self-evaluation should have a copy which contains, in addition to the formal rules, valuable interpretive material. Another important resource, available from the Office for Civil Rights, is a memorandum dated September, 1975, entitled Elimination of Sex Discrimination in Athletic Programs.

For the convenience of those responsible for the self-evaluation, the section numbering of the official Regulations is followed throughout this paper. Sections are omitted that do not apply to colleges and universities or to the process of self-evaluation. Following Section 86.3, Remedial and Affirmative Action and Self-evaluation, suggestions for affirmative action are made; the general plan for self-evaluation is outlined; and a summary is provided for sections that do not require comment on suggested procedures.

Beginning with Section 86.15, Admissions, the plan of this paper is as follows: first, in italics, a summary in lay language of each requirement that affects institutions of higher education; second, a commentary on each section; and, finally, suggested procedures, where appropriate, for the evaluation of each area included in the Title IX Regulation.

Note: It is assumed that institutions using this material are covered by Title IX or that they have voluntarily elected to analyze their practices with respect to sex discrimination.

86.3 Remedial and Affirmative Action and Self-Evaluation

The regulation stipulates that each institution, prior to July 21, 1976, must:

a) Evaluate in terms of sex discrimination its current policies and practices concerning admission of students, treatment of students, and employment;

b) Modify any policies or practices which do not meet the requirements of the Title IX Regulations; and

c) Take whatever remedial actions necessary to eliminate the effects of past sex discrimination.

The self-evaluation, including modifications made and remedial actions taken, must be kept on file for at least three years after its completion. It must be available to the Director of the Office for Civil Rights (OCR) on request.

If the Director of OCR finds that an institution is discriminating against persons on the basis of sex, the institution must take whatever remedial action the Director requires.

A college or university is permitted to take affirmative action to overcome the effects of conditions that have previously limited the participation of persons of either sex in the programs and activities of the institutions.

Title IX requires the identification and elimination of inequities in specific aspects of higher education. The goal of equal opportunity for women and men, however, calls for much more than the prohibition of discriminatory practices. Although Title IX does not require affirmative action, the Regulation does permit it, thereby encouraging institutions to increase their range of effective action toward equal opportunity.

Some colleges and universities are looking beyond the elimination of double standards to examine attitudes, policies, and practices that may limit opportunity in ways that are not subject to laws. Examples include exploration by institutional personnel of their attitudes and assumptions; review of textbooks and other teaching materials in terms of their portrayal of men and women; reexamination of academic rules to determine the necessity for full-time study or the length of residency

requirements; review of the content of standard departmental classes to determine whether the concerns and accomplishments of women as well as men are included or whether special women's studies in their disciplines are needed; inspection of teaching schedules of graduate assistants to insure that inconvenient hours are not disproportionately assigned to those who are solely responsible for the care of children; and consideration of ways to avoid sex bias in the writing or reading of recommendations.

Other positive actions include the support or establishment of counseling programs that meet the special needs of women or men, adoption of plans to encourage women to consider traditionally male-dominated subjects and vice versa, exploration of flexible course schedules to meet the needs of mature students, establishment or support of women's career centers and commissions for women, and development of a variety of child-care options.

Although none of the above are required by law or regulation, all are required examples of positive steps toward making equality of opportunity a reality. Some institutions are already engaged in or exploring the feasibility of these and other activities. Title IX provides the impetus for all institutions to re-examine their academic environments.

THE GENERAL PLAN FOR SELF-EVALUATION

1. The Chief Executive Officer of the institution informs the campus and public that the college does not discriminate on the basis of sex and that Title IX makes such discrimination illegal.

2. A Title IX Coordinator is appointed who is knowledgeable about sex role stereotyping and sex discrimination and committed to the institution's meeting both its moral and legal obligations to provide complete equality of opportunity to women and men.

3. An advisory group (referred to in this paper as the Self-Evaluation Policy Committee) is established that is widely representative of the campus community, each member of whom has the kind of commitment expected of the Coordinator.

4. Offices and persons directly responsible for various aspects of institutional operation are identified and assigned responsibility for assessing and reporting factual information on the current status of their areas in regard to sex discrimination.

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5. Each responsible unit completes a fact-finding report of its current policies and practices by an assigned date.

Each unit follows steps five through eight.

6. This factual information is submitted to appropriate individuals and groups for fact checking, completeness, and initialing by appropriate officials and is made readily available to any other interested person.

7. The unit designated as responsible for each area then proposes alterations of policies and practices and other remedies required to bring the area covered by each report into conformity with the requirement of Title IX, at the least.

8. The complete report on each area is submitted to the Coordinator's office.

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9. The Coordinator notifies the campus community when each report is on file and where copies are available for study and comment by interested persons for a specified period of time.

10. The Coordinator and the Self-Evaluation Policy Committee make progress reports to significant groups - student and faculty governing bodies, unions, alumni councils, administrative units, commissions on the status of women, women's centers, governing

boards - and hold some open meetings to give persons who are not members of any such group an opportunity to participate.

11. The Self-Evaluation Policy Committee and Coordinator consider all written comments and revise proposed modifications of policies and practices where desirable, after checking with the unit primarily responsible as to the effect of the proposed changes in its operation.

12. The Coordinator submits the final report of each unit to the Chief Executive Officer of the institution for final action.

13. Modifications of policies and practices and remedial and affirmative steps to be undertaken as the result of the self-evaluation are published widely.

14. Follow-up evaluations are scheduled after designated time periods to monitor the extent of changes actually effected.

The open process outlined above suggests the importance of keeping the campus community at all times aware of the progress of the self-evaluation. Publication of some information is required by Title IX, namely, the designation of the Coordinator, the grievance procedures adopted, and the dissemination of the policy of non-discrimination. This suggested process in addition, includes publication of the names of the Self-Evaluation Policy Committee, the office or persons responsible for each unit evaluation, the availability of each report for study and comment as it is completed, and the entire self-evaluation, including policy modifications made and remedial and affirmative actions taken.

The direct involvement of the highest ranking official is essential to the success of the Institutional Self-Evaluation, beyond the appointment of a Title IX Coordinator and the issuance of a statement of compliance. Although it is true that the chief officer cannot eliminate sex discrimination by administrative fiat, it is equally true that his or her commitment to equality of opportunity and full access to all benefits and services offered by the college establishes the climate within which the self-evaluation will proceed. There is an easily discernable difference between perfunctory fulfillment of legal requirements and the assumption of genuine leadership in the cause of equality. For example, the statement, "The Federal government has taken the position that institutions must meet the goals of the Title IX Regulation to protect their eligibility for Federal funds," although true, indicates no personal commitment to the goal

of equal opportunity and encourages a check-off approach to specific Title IX requirements rather than willingness to go beyond compliance with the requirements of the law.

After the appointment of the Title IX Coordinator, an existing or new committee should be given general responsibility for policy direction of all aspects of the evaluation process and for assisting the Coordinator in educating the campus community to the issues and remedies called for. This policy group should neither administer the process of self-evaluation nor itself attempt to evaluate the various areas.

A logical starting point for the self-evaluation is the identification of all offices, organizations, and principal persons directly responsible for the various aspects of institutional operation to be evaluated and the assignment to them of responsibility for the first steps in the evaluation of their various areas. Their identification should be published.

The areas which must be examined include, but should not be limited to, admissions, student activities and organizations, athletics (intramural, club, recreational, and intercollegiate), financial assistance, counseling, academic advising, housing, testing, physical and mental health services, access to classes and courses of study, all institutional rules and policies, placement, publications, student insurance, student discipline, campus security system, institutional facilities, student employment, and academic and non-academic employment.

These areas range from those likely to be concentrated in a single service even on large campuses, for example, health services, athletics, campus security offices, and testing services, to those that may involve practically every full-time faculty member, such as academic advising. It is probably easiest to begin with services which constitute obvious entities. Where the activity is not centralized, it is best to consider the total institution in terms of whatever logical units comprise it; identify the offices and persons within each unit responsible for each aspect of the total operation, and request each to begin its own self-evaluation.

It is important to notify the entire campus as to who is responsible for the self-evaluation in each area. Every campus has a number of informed

interest groups and individuals who monitor action in their sphere of interest. Their opinions are valuable and and they should be encouraged to contribute their experiences and suggestions at every stage of the evaluation.

Publicizing the entire process of self-evaluation has a number of values. It commits the institution to a process, sets deadlines, clarifies what is expected of whom, indicates the willingness of the institution to involve all who wish to participate, and discourages any tendency to make things look better than they really are.

Institutions will not find it desirable to delay modifications of policies found deficient. For this reason, as the report of each area is completed, it should be submitted to the chief executive officer for a decision. Naturally, some modifications that require interdependent changes among units cannot be unilaterally changed. The compilation of all modifications made must be kept on file for three years and available to the Director of the Office for Civil Rights. It should also be available to all others. If the evaluation and resulting modifications of policies and practices are well publicized, as suggested, there will be many who will monitor the ensuing successes and failures, a process which should be encouraged.

Six sections of the Title IX Regulation are summarized on pages nine and ten for information only, as they do not require comment or self-evaluation procedures.

86.4 Assurance Required

Each institution is required to submit with each application for Federal financial assistance an assurance that each of its education programs or activities is in compliance with Title IX.

If remedial action is required by HEW in order for the institution to be in compliance with Title IX, the assurance must also contain a statement of the institution's commitment to the remedial action necessary to eliminate sex discrimination.

The required form for the assurance is to be specified by HEW and will be sent directly to institutions.

86.6 Effect of Other Requirements

Title IX is independent of any other Federal law and does not alter obligations of the institution not to discriminate on the basis of sex whether imposed by other Federal laws or by Executive Order 11246 as amended.

Title IX takes precedence over any State or local law or requirement and any rules or regulations of private organizations, clubs, leagues, or associations.

86.7 Effect of Employment Opportunities

Present real or perceived limitations on employment opportunities for members of one sex do not alter the obligation of institutions to comply with the requirements of Title IX.

86.8 Designation of Responsible Employee And Adoption of Grievance Procedures

This section requires the appointment of at least one institutional employee to coordinate compliance responsibilities under Title IX, including the investigation of all complaints of alleged non-compliance or prohibited actions.

The institution must notify all of its students and employees of the name, office address, and telephone number of the compliance officer.

*Grievance procedures must be adopted and published for prompt and equitable resolution of student and employee complaints of sex discrimination.**

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*W. Todd Furniss, Director, Office of Academic Affairs, American Council on Education, has published a working paper on Grievance Procedures that is useful in this connection.

86.9 Dissemination of Policy

Each institution is required on a continuing basis to notify the following people that it does not discriminate on the basis of sex and that Title IX requires that it not discriminate: applicants for admission and employment, students, employees, referral sources for applicants, and unions and professional organizations which have agreements with the institution.

The initial notification, due in October, 1975, must be distributed to every student and employee and published in local newspapers and in institution-connected newspapers and magazines.

Each announcement, bulletin, catalogue, and application form must contain a prominent statement of the above policy of non-discrimination on the basis of sex.

All publications must be free of illustrations or text that suggests differential treatment of students or employees on the basis of sex.

Further, the policy of non-discrimination must be clearly stated to all employment and admissions recruitment personnel, who must be required to abide by the policy.

86.14 Membership Practices of Certain Organizations

Title IX specifically exempts the membership practices of social sororities and fraternities, Girl Scouts, Boy Scouts, Camp Fire Girls, YMCA, YWCA and voluntary youth service organizations which are tax exempt, have been continuously single-sex, and whose members are mostly under nineteen.

86.15 Admissions

With regard to admissions only each school, department, or college of an educational institution which has an independent admissions process is considered an administratively separate unit and may not discriminate on the basis of sex in admission or recruitment of students.

86.21 Admission

No person shall be denied admission on the basis of sex or be subjected to discrimination in admission. Preference may not be given to one person over another by ranking individuals separately by sex or by applying numerical limitations upon the number or proportion of persons of either sex to be admitted.

An institution shall not administer any test or other criterion for admission which has a disproportionate adverse effect on either women or men, unless the use of such test or criterion is shown to predict validly success in the education program, and other suitable tests or criteria are shown to be unavailable.

An institution shall not apply any rule concerning marital, parental, or family status differently for men and women applicants.

Pregnancy, childbirth, termination of pregnancy or recovery therefrom may not be used to determine eligibility for admission and must be treated in the same manner as any other temporary disability or physical condition.

No pre-admission inquiry concerning marital status may be made. Inquiry as to sex of applicants may be made if the information is not used to determine admission eligibility.

86.22 Preference in Admissions

An institution may not give preference to applicants for admission on the basis of their attendance at any educational institution which admits predominately one sex.

86.23 Recruitment

An institution shall not discriminate on the basis of sex in the recruitment and admission of students. Institutions may be required to undertake additional recruitment efforts for the under-represented sex, if the Director of the Office for Civil Rights makes a finding of discrimination, or may choose to take affirmative action on behalf of the under-represented sex.

An institution shall not recruit exclusively from educational institutions which are single sex or predominately single sex institutions, if such actions lead to discriminatory enrollment results.

The regulations concerning admissions to institutions recognize and prohibit a number of practices that result in reducing opportunities for women. For years many coeducational colleges considered that the ideal ratio for women to men students should be low. Sometimes women of exceptional ability were passed over because the "quota" of women for the institution had already been met. In other cases, higher admissions requirements were set for women than for men. Admissions to residential colleges were sometimes manipulated on the basis of housing assigned to men or women, a type of sex discrimination once generally accepted by society. It is now clearly a violation of Federal law to set any quota or limit the percentage of women or men who may be accepted for admission to institutions covered by Title IX.

Previous limitations on women's admission to institutions of higher education have left vestiges of discrimination in the admissions processes of many colleges and universities. Naturally, the obvious forms of discrimination can be easily recognized and rectified: admissions quotas, sex-specific recruitment materials, and ranking or evaluating individuals separately by sex. A careful analysis is necessary to discover the everyday ways in which judgments are made, materials used, examples offered that reduce the options for women and, in some cases, for men also. Seminars and workshops should be planned for admissions staff members which will assist them with the identification of forms of discrimination which they may be using inadvertently in their contacts with students. Students and faculty of women's studies programs, women's centers, commissions for women, and women faculty members can help in planning programs to discuss sex discrimination and sex role stereotyping.

Graduate gatherings also offer unique opportunities to present programs or provide materials which assist people in dealing effectively with the elimination of sex bias. It is particularly important to speak with former students, whether or not they participate formally in the recruitment process, because they are often believed by prospective students to be speaking for the college.

Suggested Procedures for Admissions

The admissions office of each administratively separate unit should be asked to prepare its evaluation report beginning with a factual description of admissions procedures and results in terms of enrollment of women and men.

1. The printed admissions policy should be carefully examined to make certain that it does not contain any qualifications based on sex nor any reference to quotas or percentages of either sex.

2. Initial or in-service training programs for admissions staff members should be reviewed. It is very important that staff members not counsel anyone into a particular program based on assumptions about the relationship between sex and success in the field. This particular problem arises from the fact that certain professions have been traditionally dominated by one sex or the other. Society has assumed from the fact of domination that there is a corresponding fit between sex characteristics and appropriateness of the field. This assumption is in serious doubt. Whatever the ultimate experience may show, it is clear that the choice belongs to each student and nothing should be done to inhibit the likelihood of any option. Staff members should understand and implement this posture. A series of workshops or seminars on stereotyping and myths about women and men can be helpful to staff members as an educational device.

3. All materials used by admissions staff must be examined for statements, pictures, suggestions, and misleading information which seem to indicate that the college has a preference for one sex over the other. Examples of these materials include applications for admission, publicity brochures and fact sheets about the college, career information, alumni magazines or papers, and college catalogues.

4. The admissions staff, paid and volunteer, should be reviewed to assure that both sexes are represented.

5. If former students are involved in the admissions process, they must be kept informed about the concern of the institution to avoid bias in the recruit-

ment of students. This is especially important in institutions which have recently become coeducational and where patterns of recruiting for one sex only have been solidly established. Special communications and training programs may well be in order to help insure that admissions are free from sex bias.

6. Applications for admissions and publications describing admissions requirements must be checked to assure that references to prospective students' marital, parental, and family status are identical for men and women and that no rule about these matters differs for men and women applicants. If a place to record marital status has previously appeared on application forms, it must be deleted. Similarly no pre-admission information on pregnancy, childbirth, or termination of pregnancy may be used to determine eligibility for admission.

7. If the college recruits students from single-sex or primarily single-sex schools, steps must be taken to assure that this process does not result in admissions discrimination on the basis of sex. These steps include an analysis of the present college student population by sex based on the institutions from which the students came, and, if found necessary, a discussion of ways to encourage the under-represented sex to apply for admission, such as recruitment at different schools with a higher proportion of the under-represented sex. Discontinuance of special recruitment activities at single-sex schools should be considered until the admissions process can assure that such recruitment does not result in sex discrimination.

86.31 Education Programs and Activities

a) General. No one may be excluded from participating in, denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by an institution of higher education.

b) Specific Prohibitions. Institutions are prohibited from treating men and women differently in determining their eligibility for any aid, benefit, or service; by providing different aids, benefits, or services; by providing aids, benefits, and services in a different way; by denying any aid, benefit or service to members of one sex and not the other; by applying any rule of appearance to one sex only; by applying any rule concerning where students may live to one sex and not the other; by applying different rules of eligibility for in-state tuition to men and women; by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex; or by limiting one sex in the enjoyment of any right, privilege, advantage, or opportunity.

Sex discrimination occurs in institutions as a result of both formal rules and processes and informal practices that have not been examined sufficiently to clarify their effects in reducing educational options and choices of both sexes. The practices that are specifically prohibited by Title IX as well as other practices that maintain stereotypic sex roles should be examined. It is desirable first to analyze all regulations, processes, and practices that distinguish between men and women students, regardless of their purpose, including different treatment intended to be remedial or affirmative. After all processes have been explored, differences should be evaluated to determine which should be modified either because they are specifically prohibited or because they have the effect of denying equal opportunity. At this point, activities should be identified that have been established or might be organized for affirmative action purposes. Examples of such activities have been given in the section on affirmative action, pages three and four.

In addition to prescribed rules, other requirements should also be examined to determine whether or not they discriminate without intent to do so. For example, any regulations connected with pregnancy should be carefully reviewed.

Organizations or activities designed for such purposes as opening options to women, raising the level of awareness of persons to sex-role stereotyping and other limitations, or improving the status of women need not change their basic goals. Increasing numbers of men are interested in eliminating sex inequalities, and men too suffer limitations from the stereotyping of careers

and activities. It is important, therefore, that men not be denied access to the resources and programs of women's centers, commissions on the status of women, and women's studies classes.

Suggested Procedures: Rules, Requirements, and Practices

1. List every institutional rule, regulation, process, or practice that distinguishes in any way between men and women students.
   a. Examine student handbooks, catalogues, and all other publications that describe requirements or conditions related to the provision of any aid, benefit, or service offered.
   b. Check presentations given orally about careers, financial and other aids, courses of study, and services and activities sponsored by the institution, to assure that the impression is not given of their greater suitability for one sex than the other. Call the speaker's attention in appropriate and effective ways to any false impressions noted.
2. Determine whether the institution is engaging in any specifically prohibited sex discrimination, such as:
   a. Rules of behavior that are different for men and women;
   b. Sanctions that are different for men and women;
   c. Rules of appearance that are different for men and women;
   d. Differing methods of determining eligibility for in-state tuition and fees;
   e. Rules regarding which students may, or are required to live in campus housing, apartments, or any other form of housing;
   f. Reference made to different treatment of men and women in respect to any institutional service, assistance, or benefit; and
   g. Other regulations.

3. If any specifically prohibited discrimination is found to exist, determine the steps to be taken to bring the institution into compliance with Title IX.

4. Determine who should be notified, and by what means, of the required changes in rules, policies, or practices, such as students, parents, recruiters and/or admissions counselors, administrators, faculty, staff, unions, regents or trustees, and surrounding community.

Suggested Procedures: Single-Sex Organizations

1. Institutions are responsible for the practices of each student organization that has the following characteristics:
   a. Is recognized or credentialed in any way by the institution;
   b. Appears in the student handbook, college catalogue, yearbook, or other publication as an activity;
   c. Uses any facility controlled by the institution;
   d. Uses any human or financial resources of the institution.
2. For each, the following information should be obtained:
   a. The requirements for membership in each organization;
   b. The numbers of men and women who belong to or customarily attend meetings or activities of the group;
   c. For organizations open to both sexes but, in fact, utilized primarily by one sex:
      i. Reasons that may account for the differential utilization;
      ii. Assistance which can be given to the organization in planning steps it can take to open its membership in practice, paying particular attention to organizations that have recently changed their membership requirements.
   d. For organizations not open to both sexes:
      i. Whether it is exempt by law from the requirements of Title IX, as described in Section 86.14;
      ii. If exempt, whether the organization wishes to remain single-sex;

iii. If not exempt, assistance that can be offered to the organization in bringing itself into compliance with Title IX.

3. Determine the steps the institution must take to sever significant relationships with any non-exempt single-sex organization which states its refusal to make required membership changes, including:

   a. Removal of recognition or other credentialing;
   b. Removal of references to the organization in student or institutional publications;
   c. Withdrawal of the right to use institutional facilities or other resources and the right to advisement.

86.31(c) Institutional Assistance for Foreign Study Awards

c) Assistance is permitted with the administration of any kind of award that provides opportunity for one sex only to study abroad if the sex restriction is set by a foreign government or by a foreign or domestic will or trust, and if similar opportunities for foreign study are also provided for members of the other sex by the institution from any sources available to it.

The Rhodes Scholarship is the most famous award for study abroad which has been limited to men. It is encouraging to note that efforts have long been underway by officials of the Rhodes Trust to remove the sex restriction and that Parliamentary legislation has advanced to the point that the British government has announced plans to implement the legislation. Colleges have already been notified of the expected change by the American Secretary of the Rhodes Trust.

It should not be assumed that the Rhodes Scholarship is the only award for foreign study with sex restrictions. Every such award should be examined.

Suggested Procedures

1. List all sex-restricted fellowships, scholarships, and other awards of any kind for study abroad for whose administration the institution has any responsibility.

2. Indicate:

   a. The comparability of opportunities available for both sexes;

b. Whether there are any sex-restricted awards for which no comparable awards are available to members of the other sex;

c. The resources that exist to create similar opportunities for study abroad;

d. Steps the institution has taken or plans to take, to encourage the removal of sex restrictions on awards for study abroad.

86.31(d) Programs Not Operated by the Institution

d) An institution which makes use of a program or activity which it does not itself operate must ascertain that the operator of the program follows non-discriminatory policies. This provision includes any program that the institution requires of an applicant, student, or employee and any program that the institution facilitates, permits, or considers a part of or equivalent to its own program.

Institutions use many programs for which they have no direct responsibility. Student teaching in public schools has long been a traditional part of the education of elementary and secondary teachers. Internship opportunities are now an educational requirement in a number of career fields. In keeping with the general process suggested in this paper, faculty and others who negotiate the use of such programs should determine that they are free of sex bias. However, it may be necessary for the dean of each school to report the existence of the programs, so that the appropriate officials may be identified to provide the data and describe the policies and practices.

Suggested Procedures

1. Secure a list of all resources used off campus, including:
   a. Schools where student teachers are assigned;
   b. Agencies used for internships or apprenticeships of any kind;
   c. Programs for which students receive academic credit or are otherwise encouraged to use.
2. State in writing the procedures used to assure that the outside agencies follow the same non-discriminatory policies required of the institution.
3. Set a time limit for the receipt of assurances of non-discrimination.
4. Determine a method by which agencies that do not meet the requirements will be notified that their continued utilization is a violation of the Title IX Regulation and must be discontinued.

86.32 Housing

Institutions that offer housing facilities of their own must provide for students of both sexes facilities comparable in cost and quality, dividing available housing between men and women on the basis of the number of applicants for housing of each sex.

Institutions may offer separate housing for each sex, coeducational residences, or both single-sex and coed.

An institution may not use sex as a basis for offering different services, charging different fees, or imposing different rules or regulations.

If an institution provides any off-campus housing service through listing, advertising, approving, or any other method, it must be reasonably assured that both men and women students are accommodated with housing opportunities that are comparable in quality, quantity, and cost. There can be no different policies or practices as to the kinds of housing permitted for men and women.

Qualifications for occupancy of married student housing must be the same for married women students as for married men students.

Traditionally, it has been a common practice for colleges and universities to make and enforce more restrictive housing rules for women students than for men. Some of the most common rules applicable only to women have included closing hours, requirements for living on campus, dress regulations, sign-out requirements, and restrictive visiting hours for guests. Many regulations have been made or supported by women residents themselves. In addition, it is still a not uncommon practice to provide protective services for women only. Men are also sometimes given special services not available to women, such as more maid service, more recreational space and equipment, or larger food servings. It is now necessary to assure that whatever is provided to or required of students does not materially differ because of their sex.

In determining which students occupy which residences, custom has again played a significant role. Assigning space on the basis of traditional patterns of occupancy has, in some cases, limited the opportunity for campus housing for one or the other sex. Indeed, the availability of

housing has sometimes determined the numbers of men and women in the institution.

It is important that student residents be involved wherever feasible in housing decisions. More satisfactory resolution of the problems involved in making housing changes, if necessary, can be accomplished through the cooperation of those who live in campus housing.

It is probably not desirable to make all housing coeducational as a way of providing comparable housing if there is a demand from students for some single-sex housing.

Suggested Procedures

1. The office responsible for the physical plant, food service, and maintenance should prepare a survey of the housing facilities of the institution including capacities of each hall; recreational, academic and other facilities within each; whether the hall is occupied by men, women, or both; all costs levied or collected by the institution; distinctive characteristics of each hall; eligibility for residence; nature of food service; physical condition of each hall; and any other information the office believes significant to the assessment of the quantity and quality of campus residences.

2. This office should also assess in writing the comparability of housing available for men and women, both in quality and in relation to enrollment.

3. The office responsible for personnel services within the residence halls should prepare a survey of all single-sex regulations governing students living in campus residences and all such regulations peculiar to a particular residence or type of residence, including qualifications required of applicants. Include rules made by students, housing officials, college administrators, trustees, or others.

4. This office should report the services offered to students in each residence, including counseling, cleaning, tutoring, and other special institutional and protective services. Any benefit not common to all residences should be included.

5. When all basic factual information is collected in a form which makes comparisons and contrasts clear and understandable, the responsible offices should submit their summaries to the student officers in each hall for review of the information about each hall. If any fact is in dispute, student reviewers and office staff responsible for the surveys should reconcile their different interpretations.
6. The Housing Office should report the number of applicants of each sex who applied for residence and the number accommodated.
7. Each hall council or other government group within each hall should prepare a survey of elected and appointed hall leaders, including those with committee assignments, indicating the sex rather than the name of each leader. Any association of halls should prepare a similar survey of its officers and committee members. In coed halls or associations, if there is gross disparity in the proportion of men and women leaders of the hall in relation to the numbers of each sex occupying the hall, each council should consider and report ways to increase leadership opportunities for the underrepresented sex.
8. A joint student-staff committee should now be formed, the student members selected by whatever student government exists within the halls, and the staff members appointed by the directors of the offices involved. The duties of this committee should include:
   a. A study of the reports of all aspects of campus housing.
   b. A statement of any changes required in the division of available housing between men and women students to bring occupancy into conformity with the proportions of men and women students who applied for campus housing for the current year. All possibilities for the coming year should be considered.
   c. A statement of needed changes within each hall to make the quality of housing comparable for men and women.
   d. A determination of all rule changes needed to assure that no

regulation applies only to members of one sex. The housing regulations can be brought into conformity with the principle of equality either by eliminating differential rules or by making them applicable to both sexes.

e. Submission of a report on the findings and recommendations of the committee to the principal office with final responsibility for housing decisions.

9. The office responsible for married student housing should furnish evidence to indicate that qualifications for occupancy of married student housing are identical for men and women students. If changes in qualifications are required, such changes should be clearly stated.

10. The office responsible for assistance in connection with student housing other than that provided by the institution should prepare an analysis of the quantity and quality of the off-campus housing available to each sex. Any discrepancies between housing available to men and women students should be identified and a report made as to steps that will be taken to rectify any inequality discovered.

86.33 Comparable Facilities

Separate rest rooms, change and locker rooms, showers, baths and toilet facilities, permitted by Title IX on the basis of sex, must be comparable in convenience and quality.

Many factors have led to inadequate facilities for one or the other sex; for example, choices now being made by men and women of disciplines traditionally chosen by the other sex; conversion of residences built for one sex to the other sex or to coeducational living; use by athletic teams of both sexes of field houses and stadiums formerly used by one sex only; and equipment, such as saunas or whirlpool baths, provided in places accessible to only one sex.

Two commonly used approaches to provision of comparable facilities are the addition of new or renovation of existing facilities and assignment of a single facility to both sexes at different times.

Suggested Procedures

The office responsible for the physical plant should prepare a report on campus facilities by building that includes:

1. A complete list by building of every facility included in this requirement.
2. The results of an on-site survey of rest rooms and similar facilities. That includes:
   a. General condition of each room and its equipment;
   b. Number of toilets, showers, bathtubs, lavatories, and any other equipment and the condition of each.
3. Changes, renovation, and other actions necessary to equalize facilities for men and women and a timetable for accomplishing changes that cannot be made immediately.

86.34 Access to Course Offerings

All classes, courses of study, or other educational programs offered by an institution must, without exception, be open to both sexes.

In respect to physical education classes only, a maximum period of three years is allowed for the completion of the process of integrating classes as expeditiously as possible.

Students may be grouped within physical education classes and activities by objectively measured ability. They may also be separated by sex within classes during participation in bodily contact sports.

Physical education classes may use different standards for measuring skills and progress if use of a single standard would have an adverse effect on members of one sex.

Choruses of one sex are permitted if they result from selections based on vocal range or quality, provided both sexes have been permitted to audition.

It is unlikely that many classes or courses of study are officially limited to members of one sex, except in the field of physical education and male or female musical groups. Traditional patterns of choice, failure of students to explore all options, lack of active encouragement, inadequate career counseling, and other cultural and social reasons are among the more likely determinants of the sex composition of classes in various courses of study. Departments whose members are committed to the principle of equality of opportunity are making and will continue to make specific efforts to remove constraints that limit the choice of students of the sex that is not well represented in their field of study. The self-analysis offers the opportunity to sharpen such efforts.

Suggested Procedures

1. Ascertain by examination of the catalogue and the most recent announcement of classes what classes or courses of study are, in fact, open to members of one sex only.
2. Secure from the registrar, dean of each school, or other appropriate official a list of classes and departments that are predominantly single sex.
3. Request a written analysis from each department (or other unit appropriate to the institution) with a preponderance of students of one sex which includes:

a. The opinions of the department members as to why the department, or any specific class within it, does not attract both men and women students in proportion to the institutional enrollment;

b. The steps the department has already taken to encourage students of the sex poorly represented;

c. Additional affirmative efforts that might be made to encourage both women and men students to consider all options.

4. Physical Education departments, recognized by the Department of Health, Education and Welfare as requiring extensive reorganization, are given until July, 1978, to come into complete compliance. The analysis from presently sex-segregated Physical Education departments should include:
   a. Standards of evaluation to be used in coed classes to measure progress and skills, if a single standard would have an adverse effect on members of one sex;
   b. The kinds of objective performance standards to be used in each class to determine ability groupings within the class, if such groupings are desired;
   c. Plans for how classes will be conducted in sports and activities involving bodily contact, where separation by sex within the class is permitted;
   d. Plans for how the faculty teaching and activity assignments will be determined to avoid an adverse effect on persons of either sex.

5. Vocal Music departments should include in their analysis:

   a. Procedures to be used for auditions for all singing groups which will result in selections based on vocal range and voice qualities needed for the music to be sung, with no restrictions on the sex of students who may audition;

   b. Methods to be used to encourage students of both sexes to audition for choruses or other singing groups previously limited by reason of tradition or bias to one sex.

6. Departments with any class or sponsored activity open to members of one sex only should include steps to be taken to open such class or activity to both sexes, including changes in the course catalogue and the schedule of classes, and methods to be used to encourage students of both sexes to enroll.

86.36 Counseling and Use of Appraisal and Counseling Materials

Counseling and guidance, including assisting students and applicants for admission in making educational and career choices, must be free of sex-role stereotyping and sex bias.

Any tests and other materials used in the counseling process must be the same for both sexes, except that materials developed for the purpose of helping to overcome sex bias may be used. Information about the same careers and areas of interest must be available to men and women students. If the testing and other instruments used result in channeling a disproportionate number of men or women into certain courses of study, other tests and materials must be substituted.

If an analysis of class enrollments reveals classes that have primarily male or female enrollees, a check must be made to determine that students of the underrepresented sex were not discouraged from enrolling by the use of biased tests or other appraisal materials or by biased counseling or advising.

Many individuals on a college campus engage in some form of counseling or guidance. "Counselors" include professional counselors, clinical and consulting psychologists, psychiatrists, academic counselors or advisers, residence hall counselors, and perhaps others. All who assist students make educational and career choices are likely to influence, consciously or unconsciously, the decisions of some students. Therefore, it is necessary for institutions dedicated to the elimination of sex discrimination to identify more than the officially designated Counseling Bureau, Guidance Office, Testing Office, or similar agency to assure that all are aware of their responsibilities in respect to the requirements of Title IX.

Suggested Procedures

1. The appropriate office should prepare an evaluation of:
   a. Tests or appraisal instruments administered to all of a class of students, such as entering students or applicants to a professional school, including those tests intended to measure aptitude, interest, emotional stability, or any other characteristic.

b. Tests or appraisal instruments available for use by individuals who wish educational or career counseling;

c. The interpretation of results to the individual tested and to any others, such as faculty or schools;

d. Whether any test used has different forms for men and women or makes different assumptions about their abilities, interests, or other characteristics;

e. Whether any sex-biased tests or other appraisal instruments are used for the purpose of overcoming sex-role stereotyping, and, if so, in what way such tests contribute to this goal.

2. Those responsible for institutionally sanctioned services that offer educational and career counseling should each provide an evaluation of the written and audio-visual materials made available to counselees who are exploring various career options and educational programs.

3. In each service there should be an indication as to whether
   a. Appropriate sex-neutral information is available for all occupations and whether materials are used that encourage students to explore fields that are not traditional for their sex;
   b. In-service discussions or programs have been held or are needed to help counselors avoid unintentional sex-role stereotyping in counseling activities and materials;
   c. Counseling is readily available to students on family planning, child care services, equal opportunity legislation, and other matters that may affect their choices of courses and careers;
   d. Both male and female counselors are available and men and women students offered the choice as to whom they see.

4. Any special services that are provided to help students overcome the effects of previous sex-role socialization should be described and evaluated by those responsible for them.

86.37 Financial Assistance

Men and women students must be treated equally in all aspects of financial assistance. Whatever criteria are established for scholarships, fellowships, loans, work-study, financial aid packages, or any other form of financial assistance must be entirely sex neutral.

Eligibility for assistance may not be limited to one sex, nor may amounts or types of aid differ by sex. Any consideration of marital or parental status must be the same for men and women.

Institutions may not assist any person, organization, or group in the administration of sex-discriminatory financial aid. The substantiality of the assistance is not a factor.

Institutions may use sex-restrictive scholarships and fellowships established by legal means or by foreign governments, provided selections are made first by applying non-discriminatory criteria. Only after the awardees are chosen can they be matched with awards according to the donor's wishes. If the sex-restrictive funds are not sufficient to provide the awards for both the men and women students chosen, other institutional funds may be used to assure that no awardee selected is denied. If no further funds are available to match funds restricted by sex, no further awards may be made.

Institutions that award athletic scholarships on grants-in-aid must ensure that reasonable opportunity exists for members of each sex in proportion to their numbers as participants in intercollegiate athletics. Athletic scholarships, unlike non-athletic scholarships, may be awarded on the basis of sex, since separate teams are permitted.

Many people may be involved in the selection of recipients for financial aids: departments, committees, boards, offices and other kinds of groups, including individuals. Ultimately, a financial aids office usually puts together financial aid packages. In institutions where the financial aids office is not represented on each selection committee, care should be taken to determine the selection techniques employed by each selection group.

Complications may have to be resolved resulting from the requirement that sex-restricted funds may be used only to the extent that they can be matched with similar awards to members of the other sex since recipients of these awards may be selected by different committees. Paragraph form of the synopsis above describes the extent of use permitted of sex-restrictive funds.

Suggested Procedures

1. The Financial Aids office should prepare a list of all committees, departments,

or other individuals or groups which select recipients for scholarships, fellowships, or any other financial assistance to students.

2. Each such group should describe its current selection procedures in writing.
3. The financial aids office should compile a report summarizing the individual committees' procedures.
4. The financial aids office should include a report of its own describing the way financial aid packages are determined and the manner in which sex-restricted funds are matched with other funds.
5. The financial aids office should also prepare a report or chart indicating the amount and nature of awards of financial aids of all kinds, the sex of recipients, and an indication of the relationship between the proportion of men and women who applied for and received aid.
6. A committee with representatives from all selection groups should study the combined report and determine the modifications in procedures necessary to bring the award of financial aid into conformity with the requirements.

86.38 Employment Assistance to Students

Institutions must follow the same nondiscriminatory policies in the employment of students as are required in all other employment on the campus.

Institutions may not assist prospective employers or agencies who discriminate by sex in their recruitment, hiring, or employment practices. Placement officers and any other institutional personnel who facilitate the recruitment and hiring of students must assure themselves that persons and agencies assisted do not discriminate.

Part-time student employment services may be the responsibility of a single office, several offices, or every employer on or off campus. If there is an employment service for students, its obligations not to discriminate on the basis of sex are consistent with the obligations of the institution in all of its employment procedures and practices. If many people are interviewing and employing students, a process should be established to inform everyone involved of the requirements.

Assisting those who recruit on campus provides a service which must itself avoid sex-role stereotyping and discrimination and, in addition, must assure that no employer is being assisted who discriminates against any qualified student. Perhaps the best evidence can be secured from students interviewed and former students employed by companies who interviewed them on campus.

Suggested Procedures

1. All offices that engage in placement activities, such as collecting and disseminating resumes of students seeking employment and making facilities available for company representatives to meet prospective employees should indicate the methods used to assure that any organization or company using the services of the office does not discriminate in its employment practices.
2. Placement services should check the assisted organizations' equal opportunity statements, the wording of their notices of vacancies, the availability of their representatives for interviews with all qualified students, and the actual experiences of students interviewed.
3. Such services should provide to the Title IX Coordinator copies of letters sent to organizations and businesses that do not satisfy the requirements for

assistance. This procedure is especially important if there are two or more offices involved in placement activities.

4. All institutional employers of students should be informed of the requirements of equal employment opportunity, for example, libraries, student unions, housing, and college offices.

86.39 Health and Insurance Benefits and Services

An institution or any of its constituents, including student groups, may not offer to students a medical, hospital, accident, or life insurance policy, plan, or benefit that discriminates on the basis of sex.

Institutions may offer health services not used by the same proportion of men and women students.

If full health services are provided, basic gynecological care must be included.

Whatever limits the health service sets on services offered must not be based on sex.

There is no requirement that a student health plan be provided by the institution. The requirement states, rather, that whatever health plans are made available to students include comparable services for men and women.

Some health and insurance plans are student organization initiated and administered. These plans are covered by this provision and may not discriminate on the basis of sex.

Suggested Procedures

1. The Health Service -- hospital, clinic, nurse, or other health-related office should describe the services offered that are used solely or primarily by men or women, listing for each any special fee charged. All gynecological services offered should be separately listed, from routine tests to childbirth and abortion, with an indication of any special charge made. Services offered exclusively to men should be similarly indicated.
2. The Health Service should further analyze its policies and practices in relation to Title IX requirements and indicate changes necessary, if any, to come into full compliance.
3. The office or offices responsible for insurance plans offered to students should analyze the coverage of the policy in relation to equal treatment of men and women students. If sex-discriminatory provisions exist in any current policy, the responsible office should indicate changes required in the next insurance contract to assure equal treatment in coverage to women and men.

86.40 Marital or Parental Status

Any rule dealing with actual or potential marital or parental status must be applied equally to men and women students.

Pregnancy, termination of pregnancy, and related conditions must be treated the same as other temporary disabilities. Whatever benefits and services are available to students who are temporarily disabled, including medical services and leaves of absence, must apply equally to pregnancy-related disabilities. No requirements may be imposed with regard to such disabilities that are not applicable to all temporary disabilities, such as medical determination of the student's ability to continue in classes or engage in extra-curricular activities.

For an institution to analyze its policies and practices with regard to the marital, family, and parental status of students and prospective students and to the treatment of pregnancy and related matters, it is necessary to look not only at written regulations but at the actual practices of many segments of the campus community, including admissions officers, counselors, faculty, residence hall staff, personnel offices, and health service.

Suggested Procedures

1. Examine all written regulations that apply to the marital, family, or parental status of men and women students and list all such regulations and their sources;
2. Arrange interviews with representatives of offices and divisions that deal directly with students in their out-of-class lives to determine the actual practices of these offices in relation to the marital, family or parental status of students and the treatment of pregnancy and pregnancy-related matters;
3. Secure copies of all forms used by any office that include a request for marital, family, or parental status and an indication of how such information is used;
4. Determine whether in practice or written regulations pregnancy and pregnancy-related conditions are treated as any temporary disability;

5. Prepare a complete report of current practices and regulations in regard to the above matters;
6. Determine the modifications needed to bring the rules and practices of the institution into comformity with the regulations.

86.41 Athletics

Each institution must provide equal intercollegiate, club, recreational, and intramural athletic opportunity to members of both sexes within an adjustment period of three years.

Intercollegiate and club sports, where team selection is based on competitive skills, may have separate teams for men and women.

If only one team is offered in a non-contact sport, members of both sexes must be permitted to try out.

If only one team is offered in a bodily contact sport, members of the excluded sex need not be allowed to try out. However, institutions are not prohibited from permitting members of both sexes to try out.

Non-contact intramural and recreational sports, where team selection is not competitive, must be offered on a coeducational basis. Separate teams are prohibited.

Separate teams may be offered for contact intramural and recreational sports.

Equal opportunity in athletics will be assessed among other factors by determining whether:

a) the sports and levels of competition represent the interests and abilities of members of both sexes;

b) appropriate equipment and supplies are provided;

c) games and practice times are fairly scheduled;

d) travel and per diem are equitable;

e) opportunity for coaching and academic tutoring are equitable;

f) coaches and tutors are fairly assigned and paid;

g) locker rooms, practice and competitive facilities are equitable;

h) medical and training facilities are equally provided;

i) housing and dining services are comparable;

j) publicity is equally provided.

Athletic expenditures need not be equal but the pattern of expenditures must not result in a disparate effect on opportunity. Institutions may not discriminate in the provision of necessary equipment, supplies, facilities, and publicity for sports programs.

From the time of publication of the Proposed Regulation to implementation of Title IX, no other area has been given the attention and public discussion that athletics has received. The media, the Congress, the courts, the White House, the Office for Civil Rights, athletic associations for men and women and others have all expressed opinions, concerns or predictions of results if equality of athletic opportunity were to become a reality.

In addition to an extensive section in the Title IX Regulation, a nine-page supplementary memorandum has been issued by the Office for Civil Rights of the Department of Health, Education, and Welfare further clarifying in considerable detail how equality of opportunity should be assessed under the separate but equal principle permitted. Self-evaluation and required first-year actions are specifically addressed.

Suggested Procedures

We suggest that the general process described in this paper on pages five and six be applied to the evaluation of athletics and that the specific items described in Section 86.41 of the Regulation and in the memorandum of September, 1975, be used as the basis for the evaluation. A projected time schedule for each modification of policy and practice should be included.

86.42 Textbooks and Curricular Materials

The Regulation neither prohibits nor requires the use of any particular textbook or curricular materials.

Although textbooks and other curricular material are not covered by Title IX, HEW has specifically recognized that sex-biased teaching materials can limit equality of educational opportunity. As previously discussed, many faculty members have themselves reviewed their teaching materials in terms of possible sex bias.

86.51 Employment

Discrimination on the basis of sex is prohibited in all aspects of employment, full or part-time, including recruitment and consideration of applicants, and selection of employees.

Employment decisions must be made in a non-discriminatory manner. Applicants and employees may not be limited, segregated, or classified in any way that affects the employment opportunities of men and women.

Institutions may not enter into contractual agreements or other relationships with employment and referral agencies, labor unions or organizations that provide fringe benefits that subject employees or students to discrimination on the basis of sex.

Institutions may not give preference to applicants for employment who have attended single-sex schools if doing so has the effect of discriminating on the basis of sex.

Discrimination is prohibited in:

a) Recruitment, advertising, and the process of application for employment;

b) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

c) Rates of pay or any other form of compensation, and changes in compensation;

d) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

e) The terms of any collective bargaining agreement;

f) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

g) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

h) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

i) Employer-sponsored activities, including social or recreational programs, and

j) Any other term, condition, or privilege of employment.

86.52 Employment Criteria

Institutions may not use tests or other criteria for employment opportunities which disproportionately affect men and women applicants unless such tests or other criteria are valid predictors of successful performance in the position, and other criteria which do not have a disproportionate effect are not available.

86.53 Recruitment

Institutions may not discriminate on the basis of sex in the recruiting and hiring of employees.

If past discrimination is found to have occurred, institutions must make special efforts to recruit members of the sex discriminated against.

Institutions may not recruit primarily from sources that furnish applicants who are mostly or exclusively of one sex.

86.54 Compensation

Institutions may not exercise any policy or practice that sets different rates of pay for men and women or that results in paying members of one sex at a rate less than that paid to employees of the other sex for equal work on jobs requiring equal skill, effort, and responsibility, and which are performed under similar working conditions.

86.55 Job Classification and Structure

Jobs may not be classified as being for men or women unless sex is a bona-fide occupational qualification.

Separate lines of progression, seniority lists, career ladders, or tenure systems may not be maintained or established separately for men and women.

86.56 Fringe Benefits

Fringe benefits are defined as medical, hospital, accident, life insurance or retirement benefit, service, policy, or plan, profit-sharing or bonus plan, leave, or any other benefit or service of employment not subject to the regulation on compensation.

Institutions are prohibited from:

a) Discriminating on the basis of sex in providing fringe benefits to employees and their spouses and dependents or making fringe benefits

available to spouses and dependents of employees differently on the basis of the employees' sex;

b) Participating in a fringe benefit plan which does not provide either equal benefits or equal contributions;

c) Participating in a pension or retirement plan that permits or requires different retirement ages for men and women.

86.57 Marital or Parental Status

Institutions may not apply any policy or take any action related to employment that treats men and women employees or applicants differently in regard to their potential marital, parental, or family status; or that is based on whether the employee or applicant is a head of household or principal wage earner.

Institutions may not discriminate against or exclude from employment any applicant or employee on the basis of pregnancy or related conditions.

Pregnancy and related conditions must be treated for all job-related purposes as any other temporary disability.

If the institution has no leave policy, pregnancy and conditions related to it must be treated as a justification for a leave of absence without pay for a reasonable time, at the conclusion of which the employee must be reinstated with no loss of employment status.

86.58 Effect of State of Local Law or Other Requirements

Title IX rules and regulations take precedence over any state or local law which limits employment opportunities of members of one sex.

Institutions that provide any employment benefit to members of one sex pursuant to state or local laws or requirements must provide the same benefit to members of the other sex.

86.59 Advertising

In any advertising related to employment, institutions may not indicate a preference, limitation, specification, or discrimination based on sex, unless sex is a bona-fide occupational qualification.

86.60 Pre-Employment Inquiries

Institutions may not make pre-employment inquiries as to an applicant's marital status.

If a pre-employment inquiry is made as to the applicant's sex, the information may not be used for discriminatory purposes.

86.61 Sex as a Bona-Fide Occupational Qualification

Institutions may not make employment decisions based on alleged comparative employment characteristics of members of each sex, stereotyped characterizations of one or the other sex, or preference of employees, students, or others for members of one sex.

The sex of an applicant or employee may be considered for job-related purposes only if necessary for the successful operation of an employment function, or if the job requires service in a locker room or toilet facility used by members of one sex only.

The employment requirements of Title IX add no new dimensions to those of other laws, Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, and Executive Order 11246, each of which now includes all employees of educational institutions, public and private, and prohibits discrimination on the basis of sex.

Institutions that are Federal contractors are additionally required to have affirmative action plans and programs, which include analyses of employment by sex and job classification, identification of areas of underutilization and the extent of underutilization, the development of goals and time tables, and the implementation of programs to achieve the established goals. The most important part of the process is the identification of barriers to the employment and advancement of women and the steps that can be taken to remove them.

Although affirmative action programs are not required under Title IX, they are permitted, and remedial efforts are required if discrimination is found to exist.

If an institution subject to the Executive Order, or on its own volition, has reviewed its employment system and made plans for needed changes, the report of its activities can be made a part of the Title IX evaluation.

Institutions that have not looked searchingly at themselves in relation to employment are obligated to do so. Because of the decentralized nature of much college and university employment, in-house programs for those who have hiring responsibilities can clarify legal responsibilities, dispel unwarranted assumptions, and make clear the commitment of the institution to equal opportunity.

Much of the sex discrimination in employment does not occur as intentional violations of regulations or law. It is more likely to result from commonly employed practices that impact more heavily on women than on men, from failure to judge women and men as individuals rather than by group characteristics that may not apply to a particular individual; from assumptions about relative financial needs of men and women; or from a number of other beliefs and practices of long duration. Separating facts from fiction and arranging opportunities for discussion of the meaning of equal opportunity can speed its accomplishment and reduce stress and personnel problems.

For the self-evaluation of employment, the fourteen-point general plan on pages five and six can be used in conjunction with the specific items outlined in the employment section of the Title IX Regulation.